

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

WAYNE SUTTON

PLAINTIFF

v.

CAUSE NO. 1:19cv514-LG-RHW

**SPIRIT HALLOWEEN LLC, SPENCER
GIFTS LLC, and FOSCORP, LLC**

DEFENDANTS

**ORDER FINDING MOOT AND DENYING WITHOUT PREJUDICE MOTION
TO DISMISS**

BEFORE THE COURT is the [12] Motion to Dismiss filed by Defendants Spirit Halloween LLC and Spencer Gifts LLC. The Motion, filed November 25, 2019, asserts that Plaintiff Wayne Sutton's original [1] Complaint fails to state a claim for relief under Federal Rule of Civil Procedure 12(b)(6). Plaintiff subsequently filed a first [14] Amended Complaint on December 2, 2019, as is his right. *See* Fed. R. Civ. P. 15(a)(1)(B) ("A part may amend its pleading once as a matter of course within . . . 21 days after service of a motion under Rule 12(b) . . ."). Plaintiff's Amended Complaint supersedes the original Complaint, "render[ing] it of no legal effect." *King v. Dogan*, 31 F.3d 344, 346 (5th Cir. 1994). Because Defendants' Motion to Dismiss targets the no-longer-in-effect original Complaint, the Motion to Dismiss is now moot. *Ramirez v. Cty. of San Bernardino*, 806 F.3d 1002, 1008 (9th Cir. 2015).

IT IS THEREFORE ORDERED AND ADJUDGED that the [12] Motion to Dismiss filed by Defendants Spirit Halloween LLC and Spencer Gifts LLC is **MOOT** and therefore **DENIED** without prejudice.

SO ORDERED AND ADJUDGED this the 10th day of December, 2019.

s/ *Louis Guirola, Jr.*

LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE